

Norman C. Kleinberg
Theodore V. H. Mayer
William J. Beausoleil
HUGHES HUBBARD & REED LLP
One Battery Park Plaza
New York, New York 10004-1482
(212) 837-6000

Paul F. Strain
M. King Hill, III
David J. Heubeck
VENABLE LLP
Two Hopkins Plaza, Suite 1800
Baltimore, Maryland 21201
(410) 244-7400

Attorneys for Defendant Merck & Co., Inc.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: FOSAMAX PRODUCTS)	
LIABILITY LITIGATION)	
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<i>This Document Relates to:</i>)	MDL NO. 1789
Carrie Smith, et al.)	1:06-md-1789 (JFK)
v. Merck & Co., Inc., et al.)	
Case No: 1:07-cv-9564-JFK)	
)	

DECLARATION OF THEODORE V. H. MAYER

THEODORE V. H. MAYER declares as follows:

1. I am an attorney admitted to practice before this Court and a partner at Hughes Hubbard & Reed LLP, attorneys for Defendant Merck & Co., Inc. (“Merck”). I am familiar with the facts set forth herein. I make this declaration based on my own personal knowledge and the business records of the Firm.

2. I make this declaration in support of the Motion of Defendant Merck & Co., Inc. to Dismiss with Prejudice for Failure to Provide Plaintiff Profile Form.

3. A true and correct copy of the letter from counsel for Merck to Plaintiff's counsel, dated October 30, 2007 is attached hereto as Exhibit 1.

4. A true and correct copy of the letter from counsel for Merck to Plaintiff's counsel, dated January 2, 2008 (inadvertently written as "2007") is attached hereto as Exhibit 2.

5. A true and correct copy of the letter from counsel for Merck to Plaintiff's counsel, dated February 4, 2008 is attached hereto as Exhibit 3.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/
Theodore V. H. Mayer

Executed this
16th day of April, 2008